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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,245	03/29/2006	Hyung-Nam Choi	P33779US	5479
81722	7590	02/03/2011		
Viering, Jentschura & Partner 3770 Highland Ave. Suite 203 Manhattan Beach, CA 90266			EXAMINER PEACHES, RANDY	
			ART UNIT 2617	PAPER NUMBER
			NOTIFICATION DATE 02/03/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

vjp-us@vjp.de  
patint@vjp.de

**Office Action Summary****Application No.**

10/595,245

**Applicant(s)**

CHOI, HYUNG-NAM

**Examiner**

RANDY PEACHES

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19, 22-33 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19, 22-32 and 37-44 is/are allowed.
- 6) ☒ Claim(s) 33 and 35-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. ***Claim 36*** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. ***Claim 36*** is directed to a computer readable medium. The specification fails to teach of a scope of the medium that covers both transitory (non-statutory) embodiments, such as a signal and non-transitory (statutory) embodiments. Signals do not fall into an eligible statutory class of invention, i.e., Process, Machine, Manufacture, or Composition of Matter and therefore the claim is ineligible for Patent Protection. Correction is required.

A claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be corrected by amending to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 USC 101 by adding the limitation "non-transitory" to the claim. Other terms that exclude the signal embodiment may be acceptable upon review.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 33 and 35** are rejected under 35 U.S.C. 102(e) as being anticipated by Chang (U.S. Patent Number 7,359,345 B1).

Regarding **claim 33**, Chang et al. discloses a communication system, comprising:

- at least one node B, which reads on claim "base station (BS)", which is controlled by a higher-order radio network control entity (RNC). See column 9 lines 28-53; and
- a radio cell (CE) served by the base station (BS) in which there exists a communications connection between the base station (BS) and at least one user terminal equipment (UE) over an air interface (Uu) with a UMTS protocol structure. See column 4 lines 50-67 and column 5 line 1-13;
- wherein a plurality of RRC functionalities are disposed in the form of at least one control and/or data processing means transferred the radio network control entity RNC to the base station (BS). See column 5 lines 60-67 and column 6 lines 1-9

Regarding **claim 35**, according to **claim 33**, Chang et al. continues to disclose wherein comprising a plurality of special signaling transport blocks (STB) and two different transport block formats are provided, MAC PDU and MAC SDU. See column 8 lines 50-61.

***Allowable Subject Matter***

3. ***Claims 19, 22-32 and 37-44*** are allowed.

***Response to Arguments***

Applicant's arguments, filed 10/25/2010, with respect to the rejection(s) of ***claim(s) 19, 22-32 and 37-44*** have been fully considered and are persuasive.

However, upon further consideration, the Applicant's arguments in regards to ***claims 33 and 35-36*** are not persuasive.

The Applicant argues that the cited prior art fails to support "*RRC functionalities disposed in the form of at least one control and/or data processing means, transferred from the radio network control entity RNC to the base station.*"

The Examiner respectfully disagree. The prior art teaches that a Node B and a UE transmits MAC-hs data blocks to and from each other which contain control and signaling information. This is directly parallel with the Applicant's cited prior art in that the said RRC functionality is merely control or data information. Therefore, the Examiner maintains that claims 33 and 35 stand rejected based on the cited prior art.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RANDY PEACHES whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randy Peaches/  
Examiner, Art Unit 2617

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617